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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/680,069

10/05/2000

Daniel R. Pearson

10006131-1

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03/23/2005

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EXAMINER

POKRZYWA, JOSEPH R

ART UNIT

PAPER NUMBER

2622

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/680,069	Applicant(s) PEARSON ET AL.	
	Examiner Joseph R. Pokrzywa	Art Unit 2622	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
of the reasons discussed in the attached action.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


 Joseph R. Pokrzywa
 Examiner
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DETAILED ACTION

Period for Reply

1. The shortened statutory period for reply expires THREE MONTHS from the mailing date of the final rejection or as of the mailing date of this advisory action, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Any extension fee required pursuant to 37 CFR 1.17(a) will be calculated from the date that the shortened statutory period for reply expires as set forth above.

Response to Arguments

2. The request for reconsideration has been entered and considered but does not overcome the rejection because of the following reasons.

3. In response to applicant's arguments with respect to the rejection of claim 1, which was cited as being anticipated by Lo *et al.* (U.S. Patent Number 5,911,044), applicant argues that Lo fails to teach of configuring a scan driver for a scan job by linking a set of pre-stored driving modules, since applicant states that the virtual TWAIN and the scan job parameters taught by Lo are not scan drivers. The examiner notes that claim 1 currently requires "configuring a scan driver for a scan job ... by linking a set of pre-stored driving modules, a set of pre-stored driving modules being selected according to user set parameters in the scan job and capabilities indicated in a stored information capability descriptor concerning a scan peripheral to which the scan job is directed".

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4. First, the examiner notes that a “pre-stored driving module”, as claimed, is not the same as a “pre-stored printer driver”, as argued by applicant. A **reasonable** interpretation of “driving modules” is the pre-stored scanning parameters. As defined in Merriam Webster’s Collegiate Dictionary, a “module” includes the definition of “any in a series of standardized units for use together”. Thus, as read in column 15, lines 41-55, parameter units are stored and they are usable together to drive the virtual TWAIN device driver. The parameter units include the image resolution, brightness, and contrast, as well as a line art mode, halftone mode, and gray scale modes.

5. Continuing, the applicant argues that the virtual TWAIN taught by Lo is not a printer driver. As seen in Fig. 3, item 106, stored in the client computer 102, is a virtual TWAIN **driver**. Further, as read in column 6, lines 61-65, the “virtual TWAIN driver 106 is a software element which constitutes part of this invention and is used to implement the functions described in the flowchart for the scan-to-application aspect of this invention illustrated in FIGS.8A-8E.” Thus, the steps illustrated in Figs. 8B and 8C are functions implemented by the TWAIN driver 106, and include configuring a scan driver (virtual twain device driver 106) for a scan job for a scan peripheral when a scan job is requested by a client by linking a set of pre-stored driving modules (as read in column 15, line 41 through column 16, line 2, wherein the newly set parameters are “linked” with pre-stored scanner parameters that were stored in the server 130), wherein a set of pre-stored driving modules is selected according to user set parameters in the scan job and capabilities indicated in a stored information capability descriptor concerning a scan peripheral to which the scan job is directed (as read in column 15, line 41 through column 16, line 2).

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6. In response to applicant's arguments regarding the rejection of claim 12, whereby applicant argues that Lo fails to teach of a capability descriptor, wherein a capability descriptor provides information about the scan capabilities offered by the peripheral and is preferably realized as a data string. The examiner notes that this is not found in the current claim language. Claim 12 currently recites "a scan capability descriptor stored in said memory; and a controller for communicating with said client machine or server through said interface to perform a scan job, said controller sending said capability descriptor to said client machine or server through said interface in response to a query requesting a capability descriptor". As discussed in the Office action dated 1/19/05, as the claim is currently worded, one of ordinary skill in the art can interpret the peripheral as the scanner server 130. As read in column 7, lines 48-51, scan task software 134 within the scanner server 130 "controls the scanning operations for both the scan-to-application operation and the scan-to-file operation." Thus, as seen in Fig. 3, the scanner server 130 comprises a "system" for scanning documents and producing electronic data therefrom, being interpreted as the scan task software 134, along with the combination of the TWAIN driver 136, the SCSI interface 138, and the scanner 144. With this, Lo can be seen as teaching of the peripheral (scanner server 130) storing in its memory a scan capability descriptor, as read in column 8, line 21 through column 9, line 24, and communicating the capability descriptor in response to a query requesting the same, as read in column 12, lines 20 through 50.

7. Therefore, the rejection of **claims 1-13**, as cited in the Office action dated 1/19/05 under 35U.S.C.102(b) as being anticipated by Lo *et al.* (U.S. Patent Number 5,911,044), is maintained.

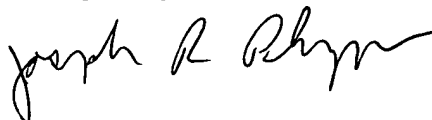
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146 or (571) 272-7410 after March 30, 2005. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa
Examiner
Art Unit 2622



jrp